

Appl. No. 09/610,033
Amdt. dated June 5, 2003
Reply to Office Action of December 19, 2002

REMARKS/ARGUMENTS

Applicants have elected Group I, claims 1-14.

Claim 1 is amended, and claims 17 and 18 are added, based on the description of pages 7-8 and 23 (Claim 1), and page 25 (claims 17 and 18). Page 23 in particular contains a definition of the meaning of terms defining the aspect ratio in claim 1. It is therefore submitted that no new matter is entered.

Claims 5-7 are objected to for a number of informalities. The Examiner's suggestions for avoiding these objections have been incorporated into the claims. Withdrawal of the objections is respectfully requested.

The primary references relied on for each of the rejections are either USP 4,861,803 to Turner or USP 6,320,042 to Michihata. There is one rejection over Nishino et al. which relies on Turner as a secondary reference for the teaching of its particles.

Applicants respectfully submit that the rejections relying on Michihata et al. are not sustainable under current U.S. patent law. This is because Michihata et al. and the present application are both owned by the same assignee. The inventions

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in each were either assigned or under an obligation of assignment to the same entity when they were made. According to 35 USC 103(c) subject matter which qualifies as prior art only under one or more of the subsections (e), (f) and (g) §102 shall not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Since Michihata et al. did not publish as a patent until November 20, 2001 (after the filing date of the present application), it can only qualify as a reference under 102(e), and this is precluded by the wording of the statute.

In view of the above, withdrawal of the rejections based on Michihata et al. is respectfully requested.

As noted above, the remaining rejections all rely either primarily or secondarily on Turner for its teaching of elongated particles.

The claims of the present application now require that the particles be flat and that they have an aspect ratio of 2-7 wherein the aspect ratio is the average particle diameter divided by the thickness diameter of the particles. This feature is not

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shown or suggested by Turner et al. either alone or in combination with the other art.

The particles are restricted to flat inorganic particles (claim 1) and silicon dioxide, titanium dioxide, aluminum oxide, or zirconium oxide (claim 17), and to silicon dioxide (Claim 18). Turner's particles are elongated mid polymer. First, Turner's aspect ratio is "ratio of length to diameter" (Col. 2, ll. 13-26). The definition of aspect ratio is just inverse to the definition in the present invention (see claim 1 and present specification page 23). Turner's particles are "elongated" like rods while the present invention particles are "flat", like coins. To emphasize the distinction, the definition of aspect ratios and other features are introduced into the claims.

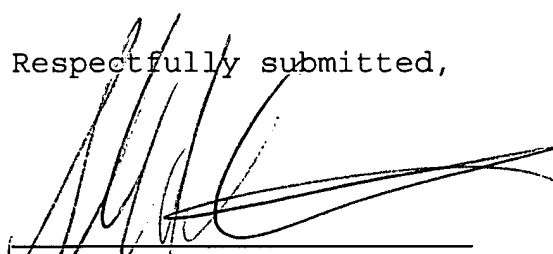
Finally, with respect to claims 17 and 18, it is noted that Turner teaches the use of particles that are "polymer" and away from particles that are inorganic particles (see column 1 of Turner).

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In view of the above, it is submitted that the present invention is not shown or suggested by the applicable cited art. Withdrawal of the rejections and allowance of the application are respectfully requested.

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